

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:11CR333
	)	
v.	)	
	)	
STACEY SELLNER,	)	ORDER
	)	
Defendant.	)	
_____	)	

This matter is before defendant Stacy Sellner's notice of appeal (Filing No. [72](#)) of this Court's orders (Filing Nos. [69](#) and [71](#)) denying defendant's motions (Filing Nos. [60](#) and [67](#)) for relief under 28 U.S.C § 2255. Defendant was given permission to proceed in forma pauperis in the underlying matters and the Court sees no reason why she should not proceed in forma pauperis on appeal. Further, in accordance with 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 24(b), the Court must consider a certificate of appealability.

In her first motion, defendant contended that she was deprived of her constitutional right to counsel by (1) her attorney's failure to file an appeal; (2) her attorney's failure to contest the amount of drugs attributed to her; (3) her attorney's failure to challenge her "position" in the conspiracy by requesting a bill of particulars under Federal Rule of Civil

Procedure 7(f); and (4) her attorney's underestimation of the defendant's sentencing range.

In her second motion, defendant contended that she was deprived of her sixth amendment right to a trial by jury when the sentencing court considered facts not found by a jury. Specifically, defendant cites the precedent of *Alleyne v. United States*, 133 S.Ct 2151 (2013). Therefore, the Court finds that defendant should be allowed to proceed with both of her appeals. Accordingly,

IT IS ORDERED:

1) Defendant may proceed on appeal in forma pauperis without prepayment of costs for the appeal of both § 2255 motions;

2) A certificate of appealability is granted for both § 2255 motions.

DATED this 17th day of December, 2013.

BY THE COURT:

/s/ Lyle E. Strom

---

LYLE E. STROM, Senior Judge  
United States District Court